



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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WASHINGTON DC 20350-1000

SECNAVINST 4740.1C
ASN (RD&A)
17 Apr 2019

SECNAV INSTRUCTION 4740.1C

From: Secretary of the Navy

Subj: PROVISION OF SALVAGE FACILITIES BY CONTRACT, LEASE, OR
OTHERWISE

Ref: (a) 10 U.S.C. §§8701-8704
(b) 10 U.S.C. §2667
(c) 40 U.S.C. §102

1. Purpose. To delegate Secretarial authority to provide, by contract, lease, or otherwise, salvage facilities for public and private vessels; to provide notice of certain statutory requirements for salvage facilities contracts; and to establish policy governing the out-leasing of Navy salvage equipment.

2. Cancellation. SECNAVIST 4740.1B.

3. Applicability. This instruction applies to the Office of the Secretary of the Navy (Secretariat), the Chief of Naval Operation, the Commandant of the Marine Corps, and all U.S. Navy, U.S. Marine Corps installations, commands, activities, field offices, and all other organizational entities within the Department of Navy.

4. Background

a. Reference (a) authorizes the Secretary of the Navy to provide, by contract or otherwise, necessary salvage facilities for public and private vessels. It further authorizes the acquisition and transfer of vessels and other salvage equipment, as necessary, for operation by private salvage companies. The legislative history of reference (a) makes clear that such acquisitions or transfers may, among other means, be by lease or charter (as in the case of a vessel). As used in this instruction, the term "lease" includes vessel charters.

b. The term "salvage facilities" in reference (a) includes equipment and gear used to prevent, abate, or minimize damage to the environment.

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c. The leasing authority of reference (a), for salvage facilities, is separate and distinct from leasing of military property in reference (b).

5. Policy

a. The general policy of the Navy is to not compete with available commercial entities. For that reason, the Navy will typically decline the exercise of its authority to lease Navy salvage equipment where it is determined that comparable equipment is reasonably available from commercial sources. However, that consideration may be overridden where the proposed lease would be in the public interest. Examples of such situations are the opportunity to bolster national maritime salvage capability in an underserved region, or the need to provide a more timely and effective response to a significant salvage or pollution incident.

b. Prior to negotiation of a lease of Navy salvage equipment under the authority of reference (a), SUPSALV must make a written determination that:

(1) The equipment is not needed for military use during the period of the lease;

(2) The proposed lease should not render the property unsuitable for future military use;

(3) The equipment is not "excess property" as defined by reference (c); and

(4) Comparable equipment is not reasonably available from commercial sources or, in the alternative, that the proposed lease will be in the public interest.

c. The term of any such lease must not exceed five years without the express permission of the Deputy Assistant Secretary of the Navy for Ship Programs (DASN Ships).

6. Responsibilities

a. Except as stated otherwise in this instruction, the Supervisor of Salvage (SUPSALV), within Naval Sea Systems Command (NAVSEA), is delegated all Secretarial authority in

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reference (a) to provide salvage facilities for public and private vessels, and to acquire and transfer vessels and other salvage equipment. This authority will be exercised in coordination, as necessary, with the Chief of Naval Operations.

b. Proposed contracts for, or transfers of, salvage equipment that may be of Secretarial interest should be reported to the DASN Ships.

7. Statutory Requirements for Contracts

a. SUPSALV must submit to the Department of Homeland Security (DHS) for comment, as required by reference (a), any proposed Navy salvage facilities contract that affects the interest of DHS.

b. SUPSALV has the authority to enter into contracts for the provision of salvage facilities in accordance with references (a)..

c. As required by reference (a), SUPSALV may not enter into a contract for salvage facilities until the Navy has provided public notice of the intent to enter into such a contract.

8. Lease Provisions

a. Leases of Navy salvage equipment must contain the following provisions:

(1) A description of the general commercial operations in which the equipment may be used;

(2) A stipulation that the equipment may be used only for its designed operational purpose;

(3) A provision requiring the lessee to maintain, protect, and preserve the equipment using best commercial practices;

(4) A provision permitting the government to revoke the lease, upon a stipulated notice period, whenever the government determine that the interests of the United States so require,

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(5) A provision permitting the government to revoke the lease at any time during a national emergency declared by the President; and

(6) A provision prohibiting the lessee from entering into a sublease without the prior written approval of SUPSALV.

b. In addition to the foregoing terms and conditions:

(1) A lease of salvage equipment under the authority of reference (a) must provide that the equipment will be used to support offshore salvage facilities for the term of the lease or for such lesser period as SUPSALV considers appropriate.

(2) All such leases must contain comprehensive indemnification and hold harmless provisions whereby lessees of Navy salvage equipment assume liability, including liability for loss of or damage to the equipment and for third-party bodily injury and property damage.

9. Rental Rates for Leased Equipment

a. In general, fair market rental value of the equipment to be leased will be charged as the rental rate. However, there can be exceptions to the general rule; see subparagraph 8d, below.

b. Commercial counterpart rates are normally the best measure of fair market value. For up to date salvage equipment rental rates, a valuable reference is the most current edition of *Appendix A to the Special Compensation Protection & Indemnity Clause (SCOPIC) of Lloyd's Standard Form of Salvage Agreement*. SUPSALV is authorized, but not required, to use Appendix A to SCOPIC as the basis for the Navy's salvage equipment rental rates.

c. In the case of salvage vessels, leases should normally be awarded only after competitive bid. However, there can be exceptions to that general rule; see paragraph 9(d).

d. The Navy may determine that there is justification to transfer salvage equipment, for operation by private salvage companies, on terms that represent less than fair market value if necessary to provide adequate salvage facilities for public

and private vessels. For example, a rental rate below fair market value may be appropriate, or even required, in order to provide additional salvage capability in an underserved region. Similarly, the requirement for competitive bidding for the lease of a salvage vessel may be waived in certain cases.

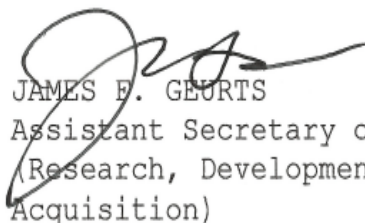
e. At the discretion of SUPSALV, in-kind consideration (such as maintenance, protection, repair and improvement) may form part of the rental compensation scheme for leased salvage equipment.

f. In accordance with reference (a), rental funds received must be credited to the account administered by SUPSALV for maintaining naval salvage facilities. However, any amount received under reference (a) in any fiscal year in excess of naval salvage costs incurred by the Navy during that fiscal year must be deposited in the general fund of the Treasury.

10. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:
<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>.

b. SUPSALV will maintain a record system from which management information, regarding contracts and leases executed under the authority of reference (a), may be compiled and furnished when required.


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